

N.D.A.G. Letter to Deisz (Oct. 28, 1985)

October 28, 1985

Mr. Micheal V. Deisz
Executive Director
Job Service North Dakota
1000 East Divide Ave.
P.O. Box 1537
Bismarck, ND 58502

Dear Mr. Deisz:

Thank you for your letter of October 15, 1985, concerning the definitions of a "permanent employee" for purposes of the state health insurance plan as well as the state retirement plan.

I have reviewed the letter written by a member of this office in 1982 concerning these various definitions. The definitions quoted under N.D.C.C. §§ 54-52.1-01(4) and 54-52-01(9) have changed only very slightly since the 1982 letter was written. In essence, the changes are limited to replacing the phrase "more than 20 hours per week" with the phrase "20 hours or more per week."

Despite these very slight changes in the definitions of a "permanent employee" for the health insurance and retirement plans, the conclusion of the November 5, 1982 letter remains the same. In other words, for purposes of the Public Employees Retirement System, those employees who are permanent are eligible to participate in the plan. A permanent employee, for purposes of the retirement system, is a governmental unit employee whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit, and is further employed 20 hours or more per week and more than 5 months per year.

On the other hand, an eligible employee for the Uniform Group Insurance Program includes permanent employees employed by the state, county, city, school district, or any combination thereof. For purposes of the Uniform Group Insurance Program, a permanent employee is defined to include any person hired with the intent that he be employed for 20 hours or more per week for more than 5 months each year.

Obviously, the definitions for "permanent employee" for purposes of the group insurance program and the retirement system are not identical. The definition for the group insurance program includes an intent requirement with respect to the employment of the employee. The same intent requirement is not found in the retirement system definition which refers solely to the hours employed per week and for each year. The retirement system definition refers to an employee whose services are limited in duration and who is filling an approved position, whereas the group insurance definition does not.

Therefore, the conclusions of the November 5, 1982 letter are accurate with respect to current statutory definitions of the term "permanent employee" as they are found within the statutes governing the Public Employees Retirement System (N.D.C.C. Ch. 54-52) and the Uniform Group Insurance Program (N.D.C.C. Ch. 54-52.1).

Sincerely,

Nicholas J. Spaeth

cv

cc: Alan Person